

REMARKS

Claims 1–20 are pending in the present application.

Claim 10 was amended herein

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 103 (Obviousness)

Claims 1–6 and 8–15 and 12 were previously rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,285,926 to *Falk et al* in view of U.S. Patent No. 4,317,604 to *Krakauer*. Claims 7 and 16–20 were previously rejected under 35 U.S.C. § 103(a) as being unpatentable over *Falk et al* in view of *Krakauer* and further in view of U.S. Patent No. 5,313,393 to *Varley*. These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4 October 2005). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or

suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Independent claims 1, 10 and 17 each recite a radially askew tray subdivider. The radially askew tray subdivider extends from an inner edge to an outer edge of the tray. Such a feature is not found in the cited references. *Krakauer* discloses a subdivider that extends from a side edge to an outer edge of the tray.

Claims 5 and 7 have been rewritten in independent form. Claim 5 recites a specific combination of number of trays per level and trays, level spacing and number of tray zones disclosed in the specification (paragraphs [0030]-[0031]) as allowing placement of soft drink cans and nine inch platters on tray sections. Nothing in the cited references suggests these features.

Claim 7 recites a catch on the tray subdivider stopping the vend door. Such a feature is not found in the cited references.

Therefore, the rejection of claims 1–20 under 35 U.S.C. § 103 has been overcome.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@munckbutrus.com*.

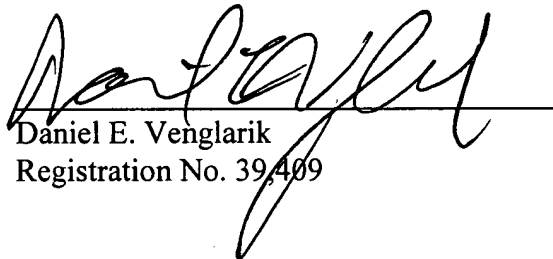
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS, P.C.

Date: _____

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